

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054

RECEIVED

SEP - 2 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Petition for Rulemaking to )  
Determine the Terms and Conditions )  
Under Which Tier 1 LECs Should Be )  
Permitted To Provide InterLATA )  
Telecommunications Services )

RM 8303

INITIAL COMMENTS OF THE  
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

PAUL RODGERS  
General Counsel

CHARLES D. GRAY  
Assistant General Counsel

JAMES BRADFORD RAMSAY  
Deputy Assistant General Counsel

National Association of  
Regulatory Utility Commissioners

1102 ICC Building  
Post Office Box 684  
Washington, D.C. 20044

(202) 898-2200

September 2, 1993

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054

RECEIVED

SEP - 2 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Petition for Rulemaking to )  
Determine the Terms and Conditions )  
Under Which Tier 1 LECs Should Be )  
Permitted To Provide InterLATA )  
Telecommunications Services )  
 )

RM-8303

INITIAL COMMENTS OF THE  
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

Pursuant to Sections 1.4 and 1.405 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. Sections 1.4 and 1.405 (1993), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully submits the following comments in response to the Commission's August 3, 1993 Report No. 1955 notice seeking comments on the Regional Bell Holding Companies ("RBOCs") jointly filed May 7, 1993 request for a rulemaking ("Petition") to determine the terms and conditions under which Tier I Local Exchange Carriers ("LECs") could be permitted to provide interLATA telecommunications service.

NARUC has not taken a formal position on the merits of the RBOC's Petition. However, on July 28, 1993, at NARUC's summer meetings in San Francisco, California, the Executive Committee passed a resolution titled **New Regulatory Proposals at the FCC** {Reported NARUC Bulletin, No. 32-1993, p.4.}. That resolution requests that the FCC

- o develop mechanisms to work cooperatively with the States to address the issues raised in this and related proceedings, and
- o to the extent it acts favorably on this and related petitions, also introduce a monitoring mechanism to collect technical, financial and market share data to enable the evaluation of these new regulatory policies, and make that data available over the FCC electronic bulletin board to all states.

In support of these requests, NARUC states as follows:

#### DISCUSSION

NARUC is a quasi-governmental nonprofit organization founded in 1889. Members include those governmental bodies of the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands, that engage in the regulation of carriers and utilities. NARUC's mission is to improve the quality and effectiveness of public utility regulation in America. Specifically, NARUC is composed of the State officials charged with the duty of regulating the telecommunications common carriers within their respective borders.

As such, they have the obligation to assure the establishment of such telecommunications services and facilities as may be required by the public convenience and necessity, and the furnishing of service at rates that are just and reasonable.

Rochester Telephone, Ameritech, and other RBOCs have filed various petitions with the FCC that propose major new regulatory policies which they believe are necessary to respond to competition. These petitions request, among other things, that the FCC grant various rule waivers pertaining to access categories, allow zone (deaveraged) pricing, modify the price cap formula to eliminate current pricing rules, and allow the recovery of subsidies via "bulk billing".

The instant petition asks the FCC to "reaffirm its previous finding that BOC participation in long-distance markets, subject to safeguards specified by the Commission, is in the public interest," Petition at iii, and undertake a rulemaking to govern RBOC entry into interLATA service.

All these regulatory proposals are designed to respond to both federal and state regulatory initiatives that, in conjunction with the incredible pace of technological change, appear to be increasing competitive forces at many levels of the communications industry.

The instant petition frames the "regulatory challenge" facing the FCC today as "construct[ing] a new regulatory paradigm that can properly accommodate full-fledged competition in the interstate long distance...business, as well as the competition developing within the States." Id. There can be no doubt that, should the FCC grant the instant RBOC Petition, it will have significant impact upon the various State jurisdictions.

Technological change is a tidal force in the communications industry that many believe is a primary driver of regulatory change. New technologies, customer demands for new services and choices, and competition appear to be eroding traditional boundaries defining what communications services are provided, what entities are allowed to provide them, and how, and by whom, such services should be regulated. The incredible rate of technological innovation spans the spectrum of issues presented to regulators and the issues arising from that change frequently are extraordinarily complex.

Now more than ever, the need for State and Federal cooperation in the oversight of telecommunications is critical. We must work together if policy objectives of efficiency, infrastructure development, and universal service are to be achieved and maintained.

Cooperative approaches can avoid expensive, lengthy, and frequently counterproductive litigation. Moreover, cooperation between State and Federal regulators to monitor emerging new services and regulatory approaches is crucial to securing the full benefits of new services and regulatory approaches while minimizing possible adverse effects. Historically, in numerous FCC proceeding, NARUC has advocated such a cooperative approach to new services and regulatory initiatives.

It appears, as early as October 1987, that the U.S. General Accounting Office recognized that the FCC may not have the funding or personnel necessary to effectively monitor even the current activities of the RBOCs, much less any new services. See, GAO Report to Congressional Requesters, Telecommunications; FCC' Oversight Efforts to Control Cross-Subsidization, GAO/RCED 93-34 (February 3, 1993); Cf. GAO Report to the Chairman, Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, House of Representatives, Telephone Communications, Controlling Cross-Subsidy Between Regulated and Competitive Services, GAO/RCED-88-34 (Oct. 1987).

Accordingly, NARUC believes that the FCC and the States should first develop mechanisms to work cooperatively in addressing the issues raised in this and related petitions.

Secondly, NARUC believes that State and Federal authorities should

- (i) work together to develop methods for, and
- (ii) provide complete reciprocal access to technical, financial and market share information.

Such information sharing will bolster monitoring efforts, allow for continuous evaluation of the implementation of any new services, and will help assure that desirable prophylactic/quality assurance effects are realized.

To assist State efforts, NARUC also requests that any such monitoring data be made available by the FCC over its electronic bulletin board to all states.

#### CONCLUSION

NARUC respectfully requests that the FCC work cooperatively with the States to formulate a mechanism for addressing the issues raised in this and related proceedings.

In addition, to the extent the FCC determines to open the rulemaking requested in this proceeding to ease RBOC entry into the interLATA market, NARUC requests that the FCC establish a monitoring procedure that makes relevant data about any new services and underlying costs available to state commissions via its electronic bulletin board.

Respectfully submitted,



PAUL ROGERS  
General Counsel



CHARLES D. GRAY  
Assistant General Counsel



JAMES BRADFORD RAMSAY  
Deputy Assistant General Counsel

National Association of  
Regulatory Utility Commissioners

1102 ICC Building  
Post Office Box 684  
Washington, D.C. 20044

(202) 898-2200

September 2, 1993



APPENDIX A - NARUC's July 1993 Resolution

New Regulatory Proposals at the FCC

**WHEREAS**, Rochester Telephone, Ameritech, and other Regional Bell Holding (RBH) Companies have filed various petitions with the Federal Communications Commission (FCC) that propose new regulatory policies which they believe are necessary to respond to competition; and

**WHEREAS**, These petitions request, among other things, that the FCC:

- certify to the MFJ court that the RBHs offering interexchange service is in the public interest;
  - grant various rule waivers pertaining to access categories;
  - allow zone (deaveraged) pricing;
  - modify the price cap formula to eliminate current pricing rules;
  - allow the recovery of subsidies via "bulk billing" ;
- and

**WHEREAS**, The granting of these petitions could have major regulatory effects in both state and federal jurisdictions; now, therefore, be it

**RESOLVED**, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 1993 Summer Meeting in San Francisco, California, requests that the FCC and states should develop mechanisms to work cooperatively in addressing the issues raised in these petitions; and, be it further

**RESOLVED**, That if the FCC grants the necessary petitions and if plans move forward, the FCC should also introduce a monitoring mechanism that will collect technical, financial and market share information to enable the evaluation of these new regulatory policies; and be it further

**RESOLVED**, That the monitoring data be made available by the FCC over their electronic bulletin board to all states; and be it further

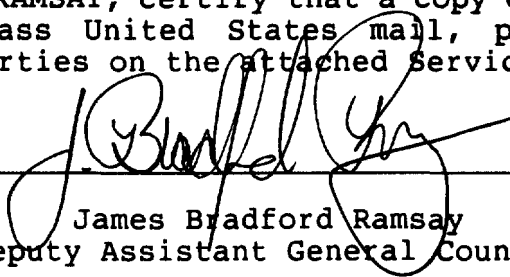
**RESOLVED**, That the NARUC General Counsel be directed to file comments consistent with this resolution in all relevant proceedings.

---

Sponsored by the Committee on Communications  
Adopted July 28, 1993  
Reported NARUC Bulletin, No. 32-1993, p.4.

CERTIFICATE OF SERVICE

I, JAMES BRADFORD RAMSAY, certify that a copy of the foregoing was sent by first class United States mail, postage prepaid, to all parties on the attached Service List.

  
James Bradford Ramsay  
Deputy Assistant General Counsel

National Association of  
Regulatory Utility Commissioners

September 2, 1993

Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW Room 544  
Washington, D.C. 20544

ITS. Inc.  
2100 M Street, NW, Suite 140  
Washington, D.C. 20037

Bell Atlantic ATTN: Edward D. Young, III  
1710 H Street, NW  
Washington, D.C. 20006

Kellogg, Huber & Hansen ATTN: Michael K. Kellogg  
1301 K Street, NW, Suite 1040E  
Washington, D.C. 20005

BellSouth ATTN: William Barfield  
1155 Peachtree Street, NE, Suite 1800  
Atlanta, GA 30367

NYNEX ATTN: Gerald E. Murray  
1113 Westchester Avenue  
Whiteplains, NY 10604

Pacific Telesis ATTN: James Tuthill  
1275 Pennsylvania Ave, NW  
Washington, DC 20004

Southwestern Bell ATTN: Paul Lane  
175 East Houston, Room 1260  
San Antonio, TX 78205